

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

GEOTAG, INC.	§	
	§	Civil Action No. 2:10-cv-573-TJW-CE
v.	§	
	§	JURY
RENT-A-CENTER, INC.; et al.	§	

**DEFENDANT APPLIED INDUSTRIAL TECHNOLOGIES, INC.'S ANSWER TO  
PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT,  
AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS**

Defendant Applied Industrial Technologies, Inc. ("AIT") answers the allegations in Plaintiff GeoTag, Inc.'s ("Plaintiff" or "GeoTag") Complaint For Patent Infringement ("Complaint") as follows, denying Plaintiff's allegations and averments except that which is expressly admitted herein:

**PARTIES**

1. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 1 of the Complaint, and therefore denies them.
2. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 2 of the Complaint, and therefore denies them.
3. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 3 of the Complaint, and therefore denies them.
4. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 4 of the Complaint, and therefore denies them.
5. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 5 of the Complaint, and therefore denies them.

6. AIT admits that it has a place of business in Cleveland, Ohio. To the extent any other allegations or averments are contained within paragraph 6, they are denied.

7. AIT denies that it is related to or affiliated with AS AMERICA, INC. D/B/A AMERICAN STANDARD BRANDS D/B/A AMERICAN STANDARD. To the extent that there are other allegations and/or averments pertaining to AIT in paragraph 7, they are denied. To the extent the allegations of paragraph 7 are directed at other named defendants, AIT lacks sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies them.

8. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 8 of the Complaint, and therefore denies them.

9. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 9 of the Complaint, and therefore denies them.

10. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 10 of the Complaint, and therefore denies them.

11. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 11 of the Complaint, and therefore denies them.

12. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 12 of the Complaint, and therefore denies them.

13. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 13 of the Complaint, and therefore denies them.

14. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 14 of the Complaint, and therefore denies them.

15. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 15 of the Complaint, and therefore denies them.

16. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 16 of the Complaint, and therefore denies them.

17. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 17 of the Complaint, and therefore denies them.

18. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 18 of the Complaint, and therefore denies them.

19. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 19 of the Complaint, and therefore denies them.

20. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 20 of the Complaint, and therefore denies them.

21. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 21 of the Complaint, and therefore denies them.

22. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 22 of the Complaint, and therefore denies them.

23. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 23 of the Complaint, and therefore denies them.

24. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 24 of the Complaint, and therefore denies them.

25. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 25 of the Complaint, and therefore denies them.

26. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 26 of the Complaint, and therefore denies them.

27. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 27 of the Complaint, and therefore denies them.

28. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 28 of the Complaint, and therefore denies them.

29. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 29 of the Complaint, and therefore denies them.

30. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 30 of the Complaint, and therefore denies them.

31. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 31 of the Complaint, and therefore denies them.

32. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 32 of the Complaint, and therefore denies them.

33. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 33 of the Complaint, and therefore denies them.

34. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 34 of the Complaint, and therefore denies them.

35. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 35 of the Complaint, and therefore denies them.

36. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 36 of the Complaint, and therefore denies them.

37. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 37 of the Complaint, and therefore denies them.

38. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 38 of the Complaint, and therefore denies them.

39. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 39 of the Complaint, and therefore denies them.

40. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 40 of the Complaint, and therefore denies them.

41. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 41 of the Complaint, and therefore denies them.

42. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 42 of the Complaint, and therefore denies them.

### **JURISDICTION AND VENUE**

43. AIT admits that the Complaint makes allegations arising under the United States patent laws, and that this Court has subject matter jurisdiction over patent law claims. For purposes of this action only, AIT does not contest the Court's exercise of personal jurisdiction. AIT denies any and all alleged infringement. To the extent that there are other allegations and/or averments pertaining to AIT in paragraph 43, they are denied. To the extent the allegations of paragraph 43 are directed at the other named defendants, AIT lacks sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies them.

44. AIT admits that venue is proper in the Eastern District of Texas for purposes of this particular action only. However, AIT disputes that venue is more proper or more convenient here than in other jurisdictions, and it reserves the right to seek transfer of this case to another

jurisdiction pursuant to Federal Rule of Civil Procedure § 1404(a), at a minimum. AIT denies all alleged patent infringement. To the extent any remaining allegations of paragraph 44 are directed at or to AIT, they are denied. To the extent any allegations of paragraph 44 are directed at the other named defendants, AIT lacks sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies them.

45. AIT denies that the action *Geomas (International), Ltd., et al. v. Idearc Media Services-West, Inc., et al.*, C.A. No. 2:06-cv-475-CE establishes venue for the purposes of the current proceeding. To the extent any remaining allegations of paragraph 45 are directed at or to AIT, they are denied. To the extent any allegations of paragraph 45 are directed at the other named defendants, AIT lacks sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies them.

**COUNT I**  
**ALLEGED INFRINGEMENT OF U.S. PATENT NO. 5,930,474**

46. AIT admits that U.S. Patent No. 5,930,474 (the “‘474 patent”) appears to be entitled “Internet Organizer for Accessing Geographically and Topically Based Information” and that it appears to bear an issuance date of July 27, 1999. AIT denies that the ‘474 patent was “duly and legally issued.” To the extent paragraph 46 contains any additional allegations or averments, they are denied.

47. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 47 of the Complaint, and therefore denies them.

48. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 48 of the Complaint, and therefore denies them.

49. AIT denies all alleged patent infringement. To the extent any remaining allegations of paragraph 49 are directed at or to AIT, they are denied. To the extent any

allegations of paragraph 49 are directed at the other named defendants, AIT lacks sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies them.

50. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 50 of the Complaint, and therefore denies them.

51. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 51 of the Complaint, and therefore denies them.

52. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 52 of the Complaint, and therefore denies them.

53. Denied.

54. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 54 of the Complaint, and therefore denies them.

55. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 55 of the Complaint, and therefore denies them.

56. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 56 of the Complaint, and therefore denies them.

57. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 57 of the Complaint, and therefore denies them.

58. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 58 of the Complaint, and therefore denies them.

59. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 59 of the Complaint, and therefore denies them.

60. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 60 of the Complaint, and therefore denies them.

61. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 61 of the Complaint, and therefore denies them.

62. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 62 of the Complaint, and therefore denies them.

63. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 63 of the Complaint, and therefore denies them.

64. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 64 of the Complaint, and therefore denies them.

65. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 65 of the Complaint, and therefore denies them.

66. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 66 of the Complaint, and therefore denies them.

67. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 67 of the Complaint, and therefore denies them.

68. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 68 of the Complaint, and therefore denies them.

69. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 69 of the Complaint, and therefore denies them.

70. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 70 of the Complaint, and therefore denies them.



71. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 71 of the Complaint, and therefore denies them.

72. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 72 of the Complaint, and therefore denies them.

73. AIT is without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 73 of the Complaint, and therefore denies them.

74. AIT denies any and all alleged infringement, including, but not limited to, willful infringement. To the extent that there are other allegations and/or averments pertaining to AIT in paragraph 74, they are denied. To the extent the allegations of paragraph 74 are directed at the other named defendants, AIT lacks sufficient knowledge or information to form a belief as to the truth of the allegations and therefore denies them.

75. Denied as to AIT. To the extent that allegations are directed to other named defendants, AIT lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 75 and therefore denies them.

#### **PRAYER FOR RELIEF**

AIT denies that Plaintiff is entitled to any of the requested relief and denies any allegations and/or averments in Plaintiff's prayer for relief.

#### **DEMAND FOR JURY TRIAL**

AIT admits that Plaintiff has demanded a jury trial. To the extent that this paragraph contains any allegations and/or averments directed to AIT, they are denied.

**APPLIED INDUSTRIAL TECHNOLOGIES, INC.'S AFFIRMATIVE DEFENSES**

Upon information and belief, AIT alleges and asserts the following defenses, affirmative or otherwise, without assuming any burden of proof that it would not otherwise have. In addition to the affirmative defenses described below and subject to its responses above, AIT specifically reserves all rights to allege additional defenses that become known through the course of discovery.

**FIRST AFFIRMATIVE DEFENSE: Non-Infringement**

AIT does not infringe and has not infringed any claim of the '474 patent, directly, indirectly, and/or in any alleged way.

**SECOND AFFIRMATIVE DEFENSE: Invalidity**

The claims of the '474 patent are invalid for failure to satisfy one or more of the requirements of Title 35 of the United States Code, including but not limited to §§ 101, 102, 103, and/or 112, *et seq.*

**THIRD AFFIRMATIVE DEFENSE: Waiver, Acquiescence and/or Consent**

Plaintiff's claims of infringement under the '474 patent are barred, in whole or in part, by the doctrines of waiver, acquiescence and/or consent.

**FOURTH AFFIRMATIVE DEFENSE: Laches**

Plaintiff's claims of infringement under the '474 patent are barred, in whole or in part, by the doctrine of laches.

**FIFTH AFFIRMATIVE DEFENSE: Estoppel**

Plaintiff's claims of infringement under the '474 patent are barred, in whole or in part, by the doctrines of estoppel.

**SIXTH AFFIRMATIVE DEFENSE: Bar to Damages**

Plaintiff's claims for damages are barred, in whole or in part, under 35 U.S.C. § 286 (six year limitation) and 35 U.S.C. § 287 (marking).

**SEVENTH AFFIRMATIVE DEFENSE: Failure to State a Claim**

Plaintiff's Complaint fails to state a claim upon which relief can be granted, including, but not limited to, because Plaintiff's Complaint fails to meet the standard for pleading set by the Supreme Court in *Ashcroft v. Iqbal*, *Bell Atlantic Corp. v. Twombly*, and their progeny.

**EIGHTH AFFIRMATIVE DEFENSE: No Injunctive Relief**

Plaintiff is not entitled to any injunctive relief as it has, at a minimum, an adequate remedy at law and no irreparable alleged injury.

**COUNTERCLAIMS**

Pursuant to Rule 13 of the Federal Rules of Civil Procedure, Applied Industrial Technologies, Inc. ("AIT") asserts the following Counterclaims against Plaintiff GeoTag, Inc. ("Geotag"):

**THE PARTIES**

1. Counterclaim-Plaintiff AIT is a corporation organized and existing under the laws of the state of Ohio with its principal place of business located at 1 Applied Plaza, Cleveland, OH 44115.

2. Counterclaim-Defendant GeoTag purports to be a Delaware corporation with its principal place of business in Plano, Texas.

**JURISDICTION AND VENUE**

3. Subject to AIT's affirmative defenses and denials, AIT alleges that this Court has jurisdiction over the subject matter of these Counterclaims under, without limitation, 28 U.S.C.

§§ 1331, 1367, 1338(a), 2201, and 2202, and venue for these Counterclaims is proper in this district.

4. This Court has personal jurisdiction over GeoTag.

### **FACTUAL BACKGROUND**

5. In its Complaint for Patent Infringement, GeoTag asserts that AIT has infringed the '474 patent. AIT denies GeoTag's allegations of infringement and further denies that the '474 patent is valid. Consequently, there is an actual case or controversy between the parties over the non-infringement and/or invalidity of the '474 patent.

### **COUNT ONE**

#### **Declaratory Judgment of Non-Infringement of the '474 Patent**

6. AIT restates and incorporates by reference its allegations in paragraphs 1 through 5 of its Counterclaims.

7. An actual case or controversy exists between AIT and GeoTag as to whether the '474 patent is not infringed by AIT.

8. AIT seeks a judicial declaration finding that AIT has not infringed and does not infringe, directly or indirectly, any claim of the '474 patent.

### **COUNT TWO**

#### **Declaratory Judgment of Invalidity of the '474 Patent**

9. AIT restates and incorporates by reference its allegations in paragraphs 1 through 8 of its Counterclaims.

10. An actual case or controversy exists between AIT and GeoTag as to whether the '474 patent is invalid.

11. AIT seeks a judicial declaration finding that the '474 patent is invalid for failure to meet the conditions of patentability and/or otherwise comply with the requirements of Title 35, including but not limited to, §§ 101, 102, 103, and/or 112.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant / Counterclaim-Plaintiff Applied Industrial Technologies, Inc., prays for judgment as follows:

- a. A judgment in favor of AIT denying Plaintiff all relief requested in its Complaint in this action and dismissing same with prejudice;
- b. A judgment in favor of AIT on all of its counterclaims;
- c. A judgment in favor of AIT on all of its affirmative defenses;
- d. A declaration that AIT has not infringed, either directly or indirectly, any valid claim(s) of the '474 patent;
- e. A declaration that the '474 patent is invalid;
- f. An award to AIT of its reasonable costs and expenses of litigation, including attorneys' fees and expert witness fees; and
- g. Such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

In accordance with Rule 38 of the Federal Rules of Civil Procedure and Local Rule CV-38, AIT respectfully demands a jury trial of all issues triable to a jury in this action.

Dated: March 17, 2011

Respectfully submitted,

/s/ Allen F. Gardner

Michael E. Jones  
State Bar No. 10929400  
mikejones@potterminton.com  
Allen F. Gardner  
State Bar No. 24043679  
allengardner@potterminton.com  
**POTTER MINTON**  
A Professional Corporation  
110 N. College Ave., Suite 500  
Tyler, Texas 75702  
Tel: (903) 597 8311  
Fax: (903) 593 0846

**ATTORNEYS FOR APPLIED INDUSTRIAL  
TECHNOLOGIES, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who have consented to electronic service and are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on March 17, 2011. Any other counsel of record will be served by First Class U.S. mail on this same date.

/s/ Allen F. Gardner

Allen F. Gardner